compete is severable from the rest of the contract or not), is lack of mutuality of remedy, as the defendant could not obtain performance of the plaintiff's promise. See 23 HARV. L. REV. 294; 3 COL. L. REV. 1. Although the court does not rest its decision on this ground alone, it really adopts the doctrine, the Master of the Rolls saying, "The plaintiffs have not given and cannot in future give, the defendant this consideration. . . . The plaintiffs are not entitled against the defendant to specific performance . . . without performing, and they cannot perform, the clauses which that agreement contains in favor of the defendant. . . . It would be inequitable if the plaintiffs could have that relief." The case is consequently a welcome addition to the authorities supporting this theory of mutuality.

TRADE-MARKS AND TRADE-NAMES — MARKS AND NAMES SUBJECT OF OWNERSHIP — DESCRIPTIVE WORDS IN FOREIGN LANGUAGE. — The plaintiff manufactured a wine, which it called Tipo Chianti. Later the defendant offered its wine under the name Tipo Puglia. "Tipo" is a common Italian word, meaning "of the nature of." On the ground that "Tipo" was its trade-mark, the plaintiff obtained a temporary injunction, restraining the defendant from using the term. *Held*, that the injunction cannot be sustained. *Italian Swiss Colony* v. *Italian Vineyard Co.*, 110 Pac. 913 (Cal., Sup. Ct.).

The office of a trade-mark is to point out distinctively a maker's goods, so that he may profit by their reputation with the public, and the public, in turn, may be assured that they are getting that maker's wares. See *Amoskeag Manufacturing Co.* v. *Spear*, 2 Sandf. (N. Y.) 599, 605. Words, letters, numerals, or devices may be used as trade-marks. *Shaw Stocking Co.* v. *Mack*, 12 Fed. 707. But words which are merely descriptive and so can be applied equally well to other articles of a like kind may not be appropriated as trade-marks. CAL. CIV. CODE, 1906, § 991; *Caswell* v. *Davis*, 58 N. Y. 223. This principle applies to foreign as well as to English words. *Davis* v. *Stribolt*, 59 L. T. Rep. N. S. 854; *Burke* v. *Cassin*, 45 Cal. 467; *Selchow* v. *Chaffee & Selchow Mfg. Co.*, 132 Fed. 996. But if by long user a descriptive term comes to signify to the public the goods of this particular manufacturer, an imitator will be enjoined on the ground of unfair competition. *Reddaway* v. *Banham*, [1896] A. C. 199. Since, however, the essence of that wrong is the fraud of passing off one maker's products for those of another, the competition is not unfair if, as in the principal case, the packages of the two rival brands are so unlike in appearance that there can be no confusion. *Dadirrian* v. *Yacubian*, 72 Fed. 1010. See 16 HARV. L. REV. 272 *et seq.*

TRUSTS — RESTRAINTS ON ALIENATION OF CESTUI'S INTEREST — POSTPONEMENT OF ENJOYMENT. — The testatrix left property in trust for B, C, and D, providing in her will that the legacies should not be paid until D, the youngest legatee, should have arrived at the age of twenty-five years. Upon coming of age B sought to compel payment of the legacy. *Held*, that she is not entitled to it. *King* v. *Shelton*, 38 Wash. L. R. 714 (D. C., Ct. App., Nov. 2, 1910). See NOTES, p. 224.

WAGERING CONTRACTS — RENEWED PROMISE TO PAY FOR NEW CONSIDERATION. — In consideration of the defendant's renewed promise to pay the plaintiff an over-due gambling debt, the plaintiff refrained, for a specified time, from publishing him as a defaulter. *Held*, that the plaintiff can recover on the new contract. *Wilson* v. *Conolly*, 129 L. T. 572 (Eng., K. B. D., Oct. 14, 1910).

For the discussion of a precisely similar case, see 22 HARV. L. REV. 149. The reasoning of the courts seems unimpeachable, and the criticism directed against the decisions as "whittling away the Gaming Act" should, more properly, be directed towards the Act itself, for not frankly declaring that a wagering con-